

APPENDIX K: Emergency Preparedness and Response and COVID-19 Addendum

Background:

This standalone appendix may be utilized by the state during emergency situations to request amendments to its approved waiver, to multiple approved waivers in the state, and/or to all approved waivers in the state. It includes actions that states can take under the existing Section 1915(c) home and community-based waiver authority in order to respond to an emergency. Other activities may require the use of various other authorities such as the Section 1115 demonstrations or the Section 1135 authorities.¹ This appendix may be applied retroactively as needed by the state. Public notice requirements normally applicable under 1915(c) do not apply to information contained in this Appendix.

Appendix K-1: General Information

General Information:

A. State: Florida

B. Waiver Title(s): Florida Long-Term Care Program

C. Control Number(s): FL 0962.R01.04

D. Type of Emergency (The state may check more than one box):

<input checked="" type="checkbox"/>	Pandemic or Epidemic
<input type="checkbox"/>	Natural Disaster
<input type="checkbox"/>	National Security Emergency
<input type="checkbox"/>	Environmental
<input type="checkbox"/>	Other (specify):

E. **Brief Description of Emergency.** *In no more than one paragraph each*, briefly describe the: 1) nature of emergency; 2) number of individuals affected and the state’s mechanism to identify individuals at risk; 3) roles of state, local and other entities involved in approved waiver operations; and 4) expected changes needed to service delivery methods, if applicable. The state should provide this information for each emergency checked if those emergencies affect different geographic areas and require different changes to the waiver.

COVID-19 pandemic. This amendment will apply waiver-wide for each waiver included in this Appendix, to all individuals impacted by the virus or the response to the virus (e.g. closure of day programs, etc.)

F. **Proposed Effective Date: Start Date:** January 27, 2020 **Anticipated End Date:** January 26, 2021

G. **Description of Transition Plan.**

All activities will take place in response to the impact of COVID-19 as efficiently and effectively as possible based upon the complexity of the change.

H. **Geographic Areas Affected:**

These actions will apply across the waiver to all individuals impacted by the COVID-19 virus

I. **Description of State Disaster Plan (if available) Reference to external documents is acceptable:**

N/A

Appendix K-2: Temporary or Emergency-Specific Amendment to Approved Waiver

Temporary or Emergency-Specific Amendment to Approved Waiver:

These are changes that, while directly related to the state's response to an emergency situation, require amendment to the approved waiver document. These changes are time limited and tied specifically to individuals impacted by the emergency. Permanent or long-ranging changes will need to be incorporated into the main appendices of the waiver, via an amendment request in the waiver management system (WMS) upon advice from CMS.

a. **Access and Eligibility:**

i. **Temporarily increase the cost limits for entry into the waiver.**

[Provide explanation of changes and specify the temporary cost limit.]

ii. **Temporarily modify additional targeting criteria.**

[Explanation of changes]

b. X **Services**

i. ___ Temporarily modify service scope or coverage.

[Complete Section A- Services to be Added/Modified During an Emergency.]

ii. ___ Temporarily exceed service limitations (including limits on sets of services as described in Appendix C-4) or requirements for amount, duration, and prior authorization to address health and welfare issues presented by the emergency.

[Explanation of changes]

iii. X Temporarily add services to the waiver to address the emergency situation (for example, emergency counseling; heightened case management to address emergency needs; emergency medical supplies and equipment; individually directed goods and services; ancillary services to establish temporary residences for dislocated waiver enrollees; necessary technology; emergency evacuation transportation outside of the scope of non-emergency transportation or transportation already provided through the waiver).

[Complete Section A-Services to be Added/Modified During an Emergency]

iv. X Temporarily expand setting(s) where services may be provided (e.g. hotels, shelters, schools, churches). Note for respite services only, the state should indicate any facility-based settings and indicate whether room and board is included:

[Explanation of modification, and advisement if room and board is included in the respite rate]:

Adult day health care centers are licensed facilities in the State of Florida that provide therapeutic programs of social and health services as well as activities for adults in a non-institutional setting. Participants may utilize a variety of services offered during any part of a day, but less than a 24-hour period. Adult day health care centers are currently approved waiver providers for adult day services, respite, and behavior management services. To reduce community spread of the virus among the elderly and vulnerable populations, these facilities are being mandated to temporarily close. To ensure continuity of care for enrollees receiving care in these settings, in-state licensure requirements have been waived to allow qualified staff employed or contracted with adult day health care centers to provide the following services in the enrollee's home: homemaker, medication administration, medication management, adult companion, attendant care, intermittent and skilled nursing, home delivered meals, and personal care services.

v. ___ Temporarily provide services in out of state settings (if not already permitted in the state's approved waiver). [Explanation of changes]

c. ___ Temporarily permit payment for services rendered by family caregivers or legally responsible individuals if not already permitted under the waiver.

Indicate the services to which this will apply and the safeguards to ensure that individuals receive necessary services as authorized in the plan of care, and the procedures that are used to ensure that payments are made for services rendered.

[Redacted]

d. ___ Temporarily modify provider qualifications (for example, expand provider pool, temporarily modify or suspend licensure and certification requirements).

i. ___ Temporarily modify provider qualifications.

[Provide explanation of changes, list each service affected, list the provider type, and the changes in provider qualifications.]

[Redacted]

ii. ___ Temporarily modify provider types.

[Provide explanation of changes, list each service affected, and the changes in the provider type for each service].

[Redacted]

iii. ___ Temporarily modify licensure or other requirements for settings where waiver services are furnished.

[Provide explanation of changes, description of facilities to be utilized and list each service provided in each facility utilized.]

[Redacted]

e. ___ Temporarily modify processes for level of care evaluations or re-evaluations (within regulatory requirements). [Describe]

[Redacted]

f. ___ Temporarily increase payment rates.

[Provide an explanation for the increase. List the provider types, rates by service, and specify whether this change is based on a rate development method that is different from the current approved waiver (and if different, specify and explain the rate development method). If the rate varies by provider, list the rate by service and by provider.]

[Redacted]

g. ___ Temporarily modify person-centered service plan development process and individual(s) responsible for person-centered service plan development, including qualifications.

[Describe any modifications including qualifications of individuals responsible for service plan development, and address Participant Safeguards. Also include strategies to ensure that services are received as authorized.]

h. ___ Temporarily modify incident reporting requirements, medication management or other participant safeguards to ensure individual health and welfare, and to account for emergency circumstances. [Explanation of changes]

i. ___ Temporarily allow for payment for services for the purpose of supporting waiver participants in an acute care hospital or short-term institutional stay when necessary supports (including communication and intensive personal care) are not available in that setting, or when the individual requires those services for communication and behavioral stabilization, and such services are not covered in such settings.

[Specify the services.]

j. X Temporarily include retainer payments to address emergency related issues.

[Describe the circumstances under which such payments are authorized and applicable limits on their duration. Retainer payments are available for habilitation and personal care only.]

The Agency will allow flexibility to make retainer payments for the following service which includes personal care services:

Adult Day Health Care Services: Retainer payments will be offered to providers when the individuals must leave the provider setting for any reason in response to the state of emergency or the individual is diagnosed with COVID or must self-quarantine (due to local or state requirements) and cannot receive services. Retainer payments will be based upon the average payment amount made to the provider over a retrospective three-month period; payments will be limited to 30 consecutive days of billing or the number of days for what the State authorizes a payment for “bed-hold” in nursing facilities, which will continue during the state of emergency and not to extend past the end date of this Appendix K amendment. Multiple episodes of retainer payments may be authorized for an individual during the period of the COVID-19 pandemic.

The state will implement a distinguishable process to monitor payments to avoid duplication of billing and to monitor the use of retainer payments.

k. X Temporarily institute or expand opportunities for self-direction.

[Provide an overview and any expansion of self-direction opportunities including a list of services that may be self-directed and an overview of participant safeguards.]

Currently, participant direction is offered for five waiver services: adult companion, homemaker, attendant care, intermittent and skilled nursing, and personal care. The State will also include the following services within the participant directed option: respite services; and when the direct service worker is qualified as an RN/LPN, the provision of medication administration, and medication management would be allowable.

The managed care plans will be responsible to ensure that all changes in the provision of services in response to the COVID-19 virus are documented in the recipient's care plan and enrollee record, including any services that will be provided by an alternative provider type authorized in response to the state of emergency. The managed care plans will be required to ensure that the services are being provided safely and in accordance with the waiver service definition and service limits.

l. ___ Increase Factor C.

[Explain the reason for the increase and list the current approved Factor C as well as the proposed revised Factor C]

[Empty box for explanation of increase]

m. X Other Changes Necessary [For example, any changes to billing processes, use of contracted entities or any other changes needed by the State to address imminent needs of individuals in the waiver program]. [Explanation of changes]

The State will delay submission of the evidentiary report and the 372 report for up to six months past the end of the public health emergency and not to extend past the end date of this Appendix K amendment, as necessary. The State will allow flexibility regarding monitoring of managed care case management reporting timeframes for up to six months past the end of the public health emergency and not to extend past the end date of this Appendix K amendment, as necessary.

Appendix K Addendum: COVID-19 Pandemic Response

1. HCBS Regulations

- a. Not comply with the HCBS settings requirement at 42 CFR 441.301(c)(4)(vi)(D) that individuals are able to have visitors of their choosing at any time, for settings added after March 17, 2014, to minimize the spread of infection during the COVID-19 pandemic.

2. Services

- a. Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:
 - i. Case management
 - ii. Personal care services that only require verbal cueing
 - iii. In-home habilitation

- iv. Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).
- v. Other *[Describe]*:

- b. Add home-delivered meals
- c. Add medical supplies, equipment and appliances (over and above that which is in the state plan)
- d. Add Assistive Technology

3. Conflict of Interest: The state is responding to the COVID-19 pandemic personnel crisis by authorizing case management entities to provide direct services. Therefore, the case management entity qualifies under 42 CFR 441.301(c)(1)(vi) as the only willing and qualified entity.

- a. Current safeguards authorized in the approved waiver will apply to these entities.
- b. Additional safeguards listed below will apply to these entities.

4. Provider Qualifications

- a. Allow spouses and parents of minor children to provide personal care services
- b. Allow a family member to be paid to render services to an individual.
- c. Allow other practitioners in lieu of approved providers within the waiver. *[Indicate the providers and their qualifications]*

Adult Day Health Care Centers: Adult day health care centers are currently approved waiver providers for adult day services, respite, and behavior management services. These facilities are licensed under Chapter 429, Part III, Florida Statutes. As such, staff of adult day health care centers have the requisite training and experience, and have undergone background screening, such that these staff can safely and effectively provide the following additional services: **homemaker, medication administration, medication management, adult companion, attendant care, intermittent and skilled nursing, home delivered meals, and personal care services** to Long Term Care enrollees in the home setting when the adult day health care setting is closed.

Independent Registered Nurses: Independent registered nurses are currently approved waiver providers for respite, attendant care, behavior management, medication administration, and medication management services. Independent registered nurses under the waiver have undergone background screening, such that these staff can safely and effectively provide **homemaker, adult companion, intermittent and skilled nursing, and personal care services** to Long Term Care enrollees if there are workforce shortages necessitating use of alternative qualified provider types to render the services.

Licensed Practical Nurses: Independent licensed practical nurses, operating within their scope of practice, are currently approved waiver providers for respite, attendant care services, behavior management, medication administration, and medication management. Independent registered nurses under the waiver have undergone background screening, such that these staff can safely and effectively provide **homemaker, adult companion, intermittent and skilled nursing, intermittent and skilled nursing and personal care services** to Long Term Care enrollees if there are workforce shortages necessitating use of alternative qualified provider types.

Community Care for the Elderly (CCE) Providers: Community Care for the Elderly providers are currently approved waiver providers for homemaker services, respite, personal care services, adult companion services, and home delivered meals. These providers are defined in Chapters 410 and 430, Florida Statutes. As such, CCE providers have the requisite training and experience, and have undergone background screening, such that these staff can safely and effectively provide **transportation, attendant care, intermittent and skilled nursing, and medical equipment and supply services** to Long Term Care enrollees if there are workforce shortages necessitating use of alternative qualified provider types.

Nurse Registries: Nurse registries are currently approved waiver providers for respite, attendant care, intermittent and skilled nursing services, personal care services, medication management, and medication administration. Staff of these registries have the requisite training and experience, and have undergone background screening, such that these staff can safely and effectively provide **adult companion, intermittent and skilled nursing, behavior management, services** to Long Term Care enrollees if there are workforce shortages necessitating use of alternative qualified provider types.

Older Americans Act (OAA) Providers: Older Americans Act providers are currently approved waiver providers for case management, homemaker, and home delivered meals services. Staff of these agencies have the requisite training and experience, and have undergone background screening, such that these staff can safely and effectively provide **adult companion and personal care services** to Long Term Care enrollees if there are workforce shortages necessitating use of alternative qualified provider types.

Health Care Service Pools: Health care service pools are currently approved waiver providers for homemaker and adult companion care services. Health care service pools are licensed under Chapter 400, Part IX, F.S. and utilize licensed, certified or trained health care personnel. Staff of these organizations have the requisite training and experience, and have undergone background screening, such that these staff can safely and effectively provide **attendant care, intermittent and skilled nursing, personal care, and respite services** to Long Term Care enrollees if there are workforce shortages necessitating use of alternative qualified provider types.

Centers for Independent Living: Centers for independent living are currently approved waiver providers for case management, homemaker, respite, attendant care, occupational therapy, personal care, physical therapy, speech therapy, adult companion, behavior management, caregiver training, home accessibility adaptations, and nutritional assessment and risk reduction services. Staff of these organizations have the requisite training and experience, and have undergone background screening, such that these staff can safely and effectively provide **intermittent and skilled nursing services** to Long Term Care enrollees if there are workforce shortages necessitating use of alternative qualified provider types.

- d. Modify service providers for home-delivered meals to allow for additional providers, including non-traditional providers.

5. Processes

- a. Allow an extension for reassessments and reevaluations for up to one year past the due date.
- b. Allow the option to conduct evaluations, assessments, and person-centered service planning meetings virtually/remotely in lieu of face-to-face meetings.
- c. Adjust prior approval/authorization elements approved in waiver.
- d. Adjust assessment requirements
- e. Add an electronic method of signing off on required documents such as the person-centered service plan.

Contact Person(s)

- A. The Medicaid agency representative with whom CMS should communicate regarding the request:

First Name: Ann
Last Name Dalton
Title: AHC Administrator
Agency: Agency for Health Care Administrator
Address 1: 2727 Mahan Drive, Mail Stop #20
Address 2: Click or tap here to enter text.
City Tallahassee
State Florida
Zip Code 32308
Telephone: (850) 412-4257
E-mail Ann.Dalton@ahca.myflorida.com
Fax Number (850) 414-1721

B. If applicable, the State operating agency representative with whom CMS should communicate regarding the waiver is:

First Name: Click or tap here to enter text.
Last Name Click or tap here to enter text.
Title: Click or tap here to enter text.
Agency: Click or tap here to enter text.
Address 1: Click or tap here to enter text.
Address 2: Click or tap here to enter text.
City Click or tap here to enter text.
State Click or tap here to enter text.
Zip Code Click or tap here to enter text.
Telephone: Click or tap here to enter text.
E-mail Click or tap here to enter text.
Fax Number Click or tap here to enter text.

8. Authorizing Signature

Signature:

Beth Kidder
State Medicaid Director or Designee

Date:

April 8, 2020

First Name: Beth
Last Name Kidder
Title: Deputy Secretary for Medicaid
Agency: Agency for Health Care Administration
Address 1: 2727 Mahan Drive, Mail Stop #8
Address 2:
City Tallahassee
State FL
Zip Code 32308
Telephone: (850) 412-4006
E-mail Beth.Kidder@ahca.myflorida.com
Fax Number

Section A---Services to be Added/Modified During an Emergency

Complete for each service added during a time of emergency. For services in the approved waiver that the state is temporarily modifying, enter the entire service definition and highlight the change. State laws, regulations and policies referenced in the specification should be readily available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

Service Specification

Service Title: **Live-in Caregiver Services**

Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:

Service Definition (Scope):

This service provides supervision and assistance on a 24 hour per day basis by a trained live-in caregiver. The plan enrollee (i.e., waiver participant) may choose to reside in the caregiver’s home or their own residence. The caregiver is limited to serving one enrollee at a time and is responsible for providing assistance with all activities of daily living and instrumental activities of daily living as needed. The service includes homemaking, personal care assistance, arranging for home repairs, medication monitoring, meal preparation, errands, bookkeeping, feeding pets, escorting enrollees to appointments, local driving, and grocery shopping.

- If the service is rendered in the plan enrollee’s residence, the live-in caregiver must be provided his or her own private living area (i.e., a private bedroom).
- The LTC plan is responsible for recruiting, training and matching caregivers with plan enrollees eligible for this service and providing periodic respite care to provide caregivers with a break from their caregiver responsibilities.
- The eligible plan enrollees' case manager is responsible for developing the individualized person-centered care plan, authorizing all services necessary to maintain the enrollee in the community setting and monitoring the plan enrollee's health and safety weekly and arranging respite care to relieve the caregiver on a periodic basis.

Specify applicable (if any) limits on the amount, frequency, or duration of this service:

Long-Term Care program enrollees receiving live-in caregiver services are not eligible to receive the following services (except during times when the caregiver has been provided respite): adult companion, homemaker, personal care, personal emergency response system, and respite. Spouses or legal guardians are not eligible to provide live-in-caregiver services.

Provider Specifications

Provider Category(s) <i>(check one or both):</i>	<input checked="" type="checkbox"/>	Individual. List types:	<input type="checkbox"/>	Agency. List the types of agencies:
		Individual Live-In-Caregiver		

Specify whether the service may be provided by <i>(check each that applies):</i>	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
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Provider Qualifications *(provide the following information for each type of provider):*

Provider Type:	License <i>(specify)</i>	Certificate <i>(specify)</i>	Other Standard <i>(specify)</i>
Individual caregiver	N/A	N/A	18 years of age or older; high school diploma or GED; possess at a minimum a Level I background screening; and possesses first aid, CPR, medication administration, and infection control training.

Verification of Provider Qualifications

Provider Type:	Entity Responsible for Verification:	Frequency of Verification		
Individual caregiver	AHCA or its designee	Annual		
Service Delivery Method				
Service Delivery Method <i>(check each that applies):</i>	<input type="checkbox"/>	Participant-directed as specified in Appendix E	X	Provider managed



ⁱ Numerous changes that the state may want to make may necessitate authority outside of the scope of section 1915(c) authority. States interested in changes to administrative claiming or changes that require section 1115 or section 1135 authority should engage CMS in a discussion as soon as possible. Some examples may include: (a) changes to administrative activities, such as the establishment of a hotline; or (b) suspension of general Medicaid rules that are not addressed under section 1915(c) such as payment rules or eligibility rules or suspension of provisions of section 1902(a) to which 1915(c) is typically bound.